

1  
2  
3                   UNITED STATES DISTRICT COURT  
4                   WESTERN DISTRICT OF WASHINGTON  
5                   AT TACOMA

6                   BILLY D. FOWLER,

7                   Petitioner,

8                   v.

9                   MAGGIE MILLER-STOUT,

10                  Respondent.

Case No. C06-5620FDB

ORDER DENYING CERTIFICATE  
OF APPEALABILITY

11                  The adopted the Report and Recommendation in this case concerning the burglary of a pawn  
12 shop, and Petitioner has now filed an appeal. Petitioner complained about the failure to maintain a  
13 video tape that showed nothing but the cloth upon which the jewelry was lying being pulled out of  
14 view of the video. This court agreed with the Magistrate Judge that the failure to take the video tape  
15 into evidence did not violate any duty or right owed to Petitioner. Petitioner also complained about  
16 the sufficiency of the evidence to convict him, but this Court agreed with the Report and  
17 Recommendation that the circumstantial evidence in this case allowed the jury to find every element  
18 of the charged offenses, and the Washington State Court of Appeals decision in this case did not  
19 involve an unreasonable determination of the facts nor was an unreasonable application of clearly  
20 established federal law implicated.

21                  ACCORDINGLY, IT IS ORDERED: Certificate of Appealability in this case is DENIED.

22                  DATED this 14<sup>th</sup> day of June, 2007.

23                    
24                  FRANKLIN D. BURGESS  
25                  UNITED STATES DISTRICT JUDGE

26                  ORDER - 1